6.02.6 Compliments and Complaints including Unreasonable Correspondent/Complainant Conduct (UCCC)

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Introduction

Council aims to be accessible and responsive, and to be a leader in standards of service. As a local government service provider, Council is accountable to ratepayers, business owners and visitors to the Shire, as well as all members of the public who have a right to expect quality services from our Elected Officials, Council officers/staff, contractors and volunteers alike.

It is inevitable as a service delivery organisation that Council will receive compliments and complaints about the quality of its services. Members of the public will tell us where we have gone wrong as well as what we have done well. Council acknowledges there will be occasions where people will be reluctant to provide feedback. However, through this procedure, Council aims to show its commitment to proactively seek and use feedback to improve the way we do things.

Council welcomes responses from ratepayers and all members of the public as a means of improving services to the community. Feedback can be provided in person, in writing, by email, telephone or online via its website. In dealing with feedback, Council will:

- Respond in a timely manner;
- Investigate thoroughly and objectively;
- Keep you informed of what is happening;
- Respect as far as possible, each individual’s right for confidentiality.

The process of handling compliments and complaints

The first section of this procedure is designed to reflect best practice in dealing with compliments and complaints based on information contained in documents/publications provided by the NSW Ombudsman’s Office including:

- Complaints and compliments protocols;
- Compliments and complaints management model policy;
- Effective complaint handling guidelines – 2nd edition;

Unreasonable Complainant Conduct (UCCC)

The second section of this procedure outlines Council’s process to deal with Unreasonable Complainant Conduct correspondent (UCCC) based on the NSW Ombudsman’s policy recommendations. This section of the procedure provides a robust, standardised and consistent approach that Council can use to inform and support its complaint handling processes.

Accordingly, I authorise and expect all staff to understand and implement strategies provided in this procedure as required.

Leanne Barnes OAM
General Manager
Section 1: Handling Compliments and Complaints

Purpose

The purpose of this procedure is to clarify the rights and obligations of the public to give Council feedback, be it positive or negative and to have any matter relating to dissatisfaction with Council services dealt with fairly, consistently, and confidentially.

Definitions

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Complaint</td>
<td>A statement that the delivery of a service or provision of a product has been unsatisfactory or unacceptable.</td>
</tr>
<tr>
<td>Compliment</td>
<td>A statement that the delivery of a service or provision of a product has been satisfactorily or acceptably delivered. The expression of the statement is generally polite and provides praise or admiration.</td>
</tr>
<tr>
<td>Customer Request Management (CRM) System</td>
<td>An electronic application designed to help manage Council’s service requests. It helps staff deliver predictable response times according to our Organisational service Charter.</td>
</tr>
<tr>
<td>Independent third party</td>
<td>In this procedure the term ‘Independent third party’ refers to any agency outside of Council to which complaints can or should be referred. These include the Office of Local Government (OLG), Independent Commission Against Corruption (ICAC), or the NSW Ombudsman’s Office.</td>
</tr>
</tbody>
</table>

Responsibility

This procedure applies to all Elected Officials, Council Officers, staff, volunteers and contractors of Council, whether by appointment, secondment, contract, temporary arrangement or on a fee-for-service basis. Any individual having employee functions or acting in an employee capacity, including a volunteer, is considered a member of staff and must abide by this procedure and others.

Customer Request Management (CRM) System

Council refers to Council’s Customer Service Policy for its initial protocol for managing how it interacts and provides information to members of the public. Subsequently, Council’s procedure 5.13.1 Recording of Customer Requests deals specifically with how Council manages feedback from the community. The customer response processes included in this procedure are straightforward and provide a number of levels for investigating complaints.

The CRM system provides the following options for dealing with complaints.

Option 1 - First Contact

Customer Service staff will receive, register and acknowledge enquiries or complaints about general operational matters. The issue is typically dealt with by front line staff and/or their immediate supervisor or coordinator. On a day-to-day basis, all staff will receive and acknowledge constructive feedback about how they can review and improve the services provided by Council. A Complaints CRM Task should be created for each complaint received to assist in collating statistical records for reporting requirements.

Compliments will be acknowledged and recorded by the staff member who receives them. Details of the compliment will be reported to the Manager of the service/section for which the positive feedback has been received. A Compliments CRM Task should be created for each compliment received to assist in collating statistical records for reporting requirements.
Option 2 - Formal Written Complaint

General matters
If a customer or member of the public remains dissatisfied with the initial response to their enquiry and wish to make a formal written complaint, the matter will be reported to the relevant Manager of Council. The respective Manager will acknowledge the complaint in writing, and coordinate any necessary investigation or action. The investigation will be completed internally, in consultation with all relevant Council officers, including front line staff, supervisors or coordinators, managers, and Directors.

If the complainant is dissatisfied by the outcome of the Manager’s investigation of the complaint, the matter can be referred to the Director, who will coordinate a review of the preliminary investigation and its subsequent outcome.

If the complaint is about one of Council’s Directors, the issue must be reported directly to the General Manager who will coordinate the investigation of the complaint. The General Manager will acknowledge the complaint in writing and will coordinate the investigation into the complaint.

Any complaint about the General Manager must be submitted to the Mayor who will then coordinate the complaint investigation.

If a complaint is received about the Mayor, the General Manager will consider the manner in which the issue will be investigated.

Complaints about Corrupt Conduct
Any report from a customer or member of the public about staff or Councillor behaving illegally or allegedly committing some kind of corrupt conduct must be submitted to the General Manager. This type of complaint must be addressed directly to the General Manager, and be marked ‘confidential’.

The General Manager will acknowledge the complaint in writing and will then report it to the relevant peak body, being the NSW Ombudsman, the Office of Local Government (OLG), or the Independent Commission Against Corruption (ICAC).

Code of Conduct Complaints
In the event a complaint is made against a Councillor, member of staff, contractor of Council, or volunteer in relation to a breach of the Code of Conduct, the General Manager may refer the matter to Council’s Complaints Coordinator to oversee any preliminary investigation into the complaint as per the Procedure for the Administration of the Model Code of Conduct for Local Government in NSW.

Option 3 - Independent external review of Council’s handling of a complaint
In particular situations, the investigation and management of a complaint will be coordinated by an external independent reviewer. The decision to instigate this process is made by the General Manager. If this option is selected, the complaint is investigated and managed solely by the independent reviewer.

Option 4 - Unresolved complaint
When a customer or member of the public’s complaint has not been resolved to the satisfaction of the customer, he or she will be advised of their rights to approach an outside agency to seek resolution, such as the NSW Ombudsman, the Independent Commission Against Corruption (ICAC), or the OLG. Complainants will also be advised of alternative dispute resolution options, and his or her rights to appeal procedures or other legal remedies.
Council’s Complaints and Compliments Handling Framework is provided in tables below. The framework is also depicted in the Complaints Handling Flowchart.

**BVSC Complaints Handling Framework**

<table>
<thead>
<tr>
<th>Type of Complaint</th>
<th>First Contact</th>
<th>Investigation by</th>
<th>Sign-off</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Operational matters</td>
<td>Customer Service – referred to Manager</td>
<td>Manager</td>
<td>Director</td>
</tr>
<tr>
<td>Staff performance</td>
<td>Manager</td>
<td>Director</td>
<td>General Manager</td>
</tr>
<tr>
<td>Director performance</td>
<td>General Manager</td>
<td>General Manager</td>
<td>General Manager</td>
</tr>
<tr>
<td>General Manager performance</td>
<td>Mayor</td>
<td>Mayor or Independent Investigator</td>
<td>Mayor/Councillors</td>
</tr>
<tr>
<td>Councillor performance</td>
<td>General Manager</td>
<td>General Manager, Mayor or Independent Investigator</td>
<td>Mayor</td>
</tr>
<tr>
<td>Code of Conduct breach (staff and/or Councillors)</td>
<td>General Manager</td>
<td>General Manager or Complaints Coordinator</td>
<td>General Manager</td>
</tr>
<tr>
<td>Code of Conduct breach (General Manager)</td>
<td>Mayor</td>
<td>Complaints Coordinator</td>
<td>Mayor/Councillors</td>
</tr>
<tr>
<td>Unsatisfactory resolution of complaint</td>
<td>General Manager</td>
<td>General Manager/Public Officer</td>
<td>General Manager</td>
</tr>
<tr>
<td>Public Interest Disclosure</td>
<td>General Manager</td>
<td>ICAC</td>
<td>ICAC</td>
</tr>
</tbody>
</table>

**BVSC Compliments Handling Framework**

<table>
<thead>
<tr>
<th>Type of Complaint</th>
<th>First Contact</th>
<th>Action</th>
<th>Sign-off</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compliments</td>
<td>Customer Service/individual employee</td>
<td>Acknowledge Compliment</td>
<td>Complaints and Compliments Coordinator</td>
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<tr>
<td></td>
<td></td>
<td>Distribute to relevant manager</td>
<td></td>
</tr>
</tbody>
</table>

How to make an enquiry, submit a compliment or make a complaint to Council

Members of the public

By telephone

Members of the public are able to submit a compliment or report a complaint by telephone by contacting the Customer Service Team on 6499 2222. Council’s business hours are 9am until 4.30pm, Monday to Friday. Council offices are open every week day except public holidays. An after-hours phone service is provided in case of emergency. The number for this service is 02 6499 2222.

In writing

Members of the public may submit a compliment or a complaint, and provide constructive feedback in writing, addressing the matter to:

The General Manager  
Bega Valley Shire Council  
PO Box 492  
Bega NSW 2550

Submissions can also be made to council by email council@begavalley.nsw.gov.au, or made online via Council’s website www.begavalley.nsw.gov.au

In person

Members of the public are also able to make a compliment or complaint or provide constructive feedback in person by visiting any Council office, in particular, the main Council building in Zingel Place, Bega, NSW, 2550.

All enquiries and complaints are handled in accordance with this procedure as well as the following Acts, regulations and Codes of Practice:

- Government Information Public Access (GIPA) Act 2009
- Private and Personal Information Protection (PPIP) Act 1998
- Independent Commission Against Corruption (ICAC) Act 1988
- ICAC Guidelines
- Local Government Act 1993
- Trade Practices Act 1974
- The Model Code of Conduct for Local Council in New South Wales
- Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW

Handling compliments and complaints

Council is committed to recording all feedback received and is required to register all complaints. Council is required to provide to the public as part of its Annual Report, information regarding the number of complaints received and how they were managed.

Customers and members of the public should note the General Manager does not personally handle each enquiry or complaint. On receipt, letters are referred directly to the relevant manager, who coordinates the complaint investigation in consultation with relevant Council staff.
Compliments received from the public will be recorded by staff and forwarded to the General Manager. Details of the compliment will then be forwarded to the relevant section or departmental manager of Council for dissemination to staff. Promotion of Council success will be facilitated through publishing of positive stories on Council’s website, intranet and Social Media sites. The inclusion of positive feedback will be provided in accordance with Council’s communication strategy, and in particular Council’s Communications policy.

Complaints from Councillors or staff

There are various types of complaints which are usually received by the Council, including those from:

- **Councillors**
  If a complaint is made by a Councillor about the conduct of another Councillor or Council Officer, the General Manager will consider the matter and may make a decision to utilise the Code of Conduct. In relevant circumstances, the General Manager may refer the complaint to an independent external investigator.

- **Staff**
  If a complaint is made by a staff member to the General Manager, the matter will be considered and appropriately referred to the relevant Director, who will coordinate the investigation process.

The General Manager has a statutory obligation to report specific matters to ICAC, the OLG, the NSW Police, or the NSW Ombudsman. The General Manager is required to forward matters to the relevant government agency if a reasonable view is formed that action must be taken, which is outside the jurisdiction of Council’s day-to-day management.

Matters relating to discrimination and/or harassment under Equal Employment Opportunity (EEO) and the Local Government (State) Award 2017 and the Local Government (Electricians) State Award, are managed using relevant procedures for grievances and dispute settlement. The following procedures are used to manage these issues:

- **The Model Code of Conduct for Councils in NSW including the Procedure for Administration of the Model Code of Conduct**
- **Elected Officials Communication Protocols**
- **Grievances and disputes**
- **Disciplinary action**
- **Workplace Diversity/Equal Employment Opportunity (EEO) Management Plan**
- **Positive Workplace (bullying and harassment)**

Complaints against Councillors or staff

Council recognises occasions may arise where complaints are made against Councillors and/or Council staff members by members of the public.

Complaints will be taken in writing or verbally by appropriate Council staff. Staff will record the complaint in the Customer Response Management (CRM) System. These complaints will be investigated at an appropriate level and employees will be given the opportunity to respond to complaints made against them.

Written complaints are preferable.

Anonymous complaints will not ordinarily be investigated or acted on in any way except where circumstances dictate otherwise.
Where investigations reveal that a complaint is justified and a staff member has acted in a manner contrary to accepted standards, the normal disciplinary process will be initiated in accordance with procedure 6.04.10 Disciplinary Action.

The Public Interest Disclosures Act 1994 applies where a Councillor or staff member makes a disclosure relating to corrupt conduct, maladministration or serious and substantial waste in respect of a Councillor or employee. Further information on how to manage Public Interest Disclosures is contained in procedure 6.12.7 Protected Disclosures Internal Reporting System.

If the complaint relates to the conduct of a particular Elected Official, member of staff, contractor or volunteer, Council will refer to the Office of Local Government (OLG) Administration of the Model Code of Conduct (procedure 6.02.1b).
Section 2 Unreasonable Correspondent/Complainant Conduct (UCCC)

Introduction

Council has developed this section of the procedure based on the NSW Ombudsman’s policy recommendations in relation to the management of Unreasonable Complaint Conduct (UCC). This procedure provides a robust, standardised and consistent approach that Council can use to inform and support its complaint handling processes.

Council is committed to being accessible and responsive to all correspondents and complainants in relation to lodging and dealing with their respective complaints. Council’s success in resolving complaints is dependent upon:

• Its ability to do its work and perform its functions in the most effective and efficient manner possible
• The health, safety and security of its staff, volunteers, contractors and Elected Officials, and
• Its ability to allocate resources fairly across all the correspondence/complaints received.

When correspondents and/or complainants behave unreasonably in their dealings with Council, their conduct can significantly affect the service delivery of Council. As a result, Council will take proactive and decisive action to manage any correspondent/complainant conduct negatively and unreasonably affecting its operations and will support staff, Elected Officials, contractors or volunteers to do the same in accordance with this procedure.

Objectives

This procedure has been developed to better manage unreasonable correspondent and/or complainant conduct. Its aim is to ensure all staff, contractors, volunteers and Elected Officials:

• Feel confident and supported in taking action to manage UCCC.
• Act fairly, consistently, honestly and appropriately when responding to UCCC.
• Are aware of their roles and responsibilities in relation to the management of UCCC and how this procedure will be used.
• Understand the types of circumstances when it may be appropriate to manage UCCC using one or more of the following mechanisms:
  o The strategies provided in the NSW Ombudsman’s ‘Managing Unreasonable Complainant Conduct Practice Manual’ (2nd edition) (‘practice manual’) including the strategies to change or restrict a complainant’s access to our services (available www.ombo.nsw.gov.au).
  o Alternative dispute resolution strategies to deal with conflicts involving correspondents/complainants and any Council staff member, Elected Official, contractor or volunteer.
  o Legal instruments such as trespass laws/legislation to prevent a correspondent/complainant from coming onto our premises and orders to protect from any actual or apprehended personal violence, intimidation or stalking.
• Have a clear understanding of the criteria that will be considered before Council decide to change or restrict a correspondent’s/complainant’s access to our services.
• Are aware of the processes to be followed to record and report UCCC incidents as well as the procedures for consulting and notifying correspondents/complainants about any proposed actions or decisions to change or restrict their access to our services.
Defining Unreasonable Correspondent/Complainant Conduct

Unreasonable Correspondent/Complainant Conduct

Most correspondents/complainants who write or come to Council act reasonably and responsibly in their interactions with the organisation even when they are experiencing high levels of distress, frustration and anger about their complaint. However in a very small number of cases, some individuals behave in ways that are inappropriate and unacceptable, despite Council’s best efforts to help them. They can be aggressive and verbally abusive towards staff or others. They may threaten harm and violence. They may bombard Council offices with unnecessary and excessive phone calls and emails, make inappropriate demands on Council’s time and resources and refuse to accept decisions and recommendations in relation to their complaints. When individuals behave in these ways Council considers their conduct to be ‘unreasonable’.

Unreasonable correspondent/complainant conduct is any behaviour by a current or former complainant which, because of its nature or frequency raises substantial health, safety, resource or equity issues for an organisation, its staff, other service users and complainants or the complainant himself/herself.

UCCC can be divided into five categories of conduct:

a. Unreasonable persistence
b. Unreasonable demands
c. Unreasonable lack of cooperation
d. Unreasonable arguments
e. Unreasonable behaviours including aggression

a) Unreasonable persistence

Unreasonable persistence is continued, incessant and unrelenting conduct by a complainant that has a disproportionate and unreasonable impact on an organisation, its staff, services, time and/or resources. Some examples of unreasonably persistent behaviour include:

- An unwillingness or inability to accept reasonable and logical explanations including final decisions that have been comprehensively considered and dealt with.
- Persistently demanding a review simply because it is available and without arguing or presenting a case for one.
- Pursuing and exhausting all available review options when it is not warranted and refusing to accept further action cannot or will not be taken on their complaints.
- Reframing any correspondence or complaint in an effort to get it taken up again.
- Bombarding our staff/organisation with phone calls, visits, letters, emails (including cc'd correspondence) after repeatedly being asked not to do so.
- Contacting different people within the organisation and/or externally endeavouring to get a different outcome or more sympathetic response to their complaint – internal and external forum shopping.
b) Unreasonable demands

Unreasonable demands are any demands (express or implied) made by a correspondent or complainant with a disproportionate and unreasonable impact on an organisation including staff, services, time and/or resources. Some examples of unreasonable demands include:

- Issuing instructions and making demands about how Council have/should handle their complaint, the priority it was/should be given, or the outcome that was/should be achieved.
- Insisting on personally talking to a senior manager, the Director/Executive Manager, General Manager or Mayor when it is not appropriate or warranted.
- Emotional blackmail and manipulation with the intention to guilt trip, intimidate, harass, shame, seduce or portray themselves as being victimised – when this is not the case.
- Insisting on outcomes that are not possible or appropriate in the circumstances – e.g. for someone to be sacked or prosecuted, an apology and/or compensation when no reasonable basis for expecting this.
- Demanding services of a nature or scale that we cannot provide when this has been explained to them repeatedly.

c) Unreasonable lack of cooperation

Unreasonable lack of cooperation is an unwillingness and/or inability by a correspondent or complainant to cooperate with an organisation, staff, or complaints system and processes that result in a disproportionate and unreasonable use of its services, time and/or resources. Some examples of unreasonable lack of cooperation include:

- Sending a constant stream of comprehensive and/or disorganised information without clearly defining any issues of complaint or explaining how they relate to the core issues being complained about – only where the complainant is clearly capable of doing this.
- Providing little or no detail with a complaint or presenting information in 'drips and drabs'.
- Refusing to follow or accept our instructions, suggestions, or advice without a clear or justifiable reason for doing so.
- Arguing frequently and/or with extreme intensity that a particular solution is the correct one in the face of valid contrary arguments and explanations.
- Displaying unhelpful behaviour – such as withholding information, acting dishonestly, misquoting others, and so forth.

d) Unreasonable arguments

Unreasonable arguments include any arguments not based in reason or logic, which are incomprehensible, false or inflammatory, trivial or delirious and that disproportionately and unreasonably impact upon an organisation, its staff, services, time, and/or resources. Arguments are unreasonable when they:

- Fail to follow a logical sequence
- Are not supported by any evidence and/or are based on conspiracy theories
- Lead a complainant to reject all other valid and contrary arguments
- Are trivial when compared to the amount of time, resources and attention that the complainant demands
- Are false, inflammatory or defamatory.
e) Unreasonable behaviour

Unreasonable behaviour is conduct that is unreasonable in all circumstances – regardless of how stressed, angry or frustrated a complainant is – because it unreasonably compromises the health, safety and security of staff, other service users or the complainant himself/herself. Some examples of unreasonable behaviours include:

- Acts of aggression, verbal abuse, derogatory, racist, or grossly defamatory remarks
- Harassment, intimidation or physical violence.
- Rude, confronting and threatening correspondence.
- Threats of harm to self or third parties, threats with a weapon or threats to damage property including bomb threats.
- Stalking (in person or online)
- Emotional manipulation.

All staff, volunteers, contractors and Elected Officials should note Council has a zero tolerance approach towards any harm, abuse or threats directed towards any individual. Any conduct of this kind will be dealt with under this procedure, as well as procedure 6.02.6 Complaints Handling and the Model Code of Conduct for Local Councils in NSW and finally in accordance with Council’s duty of care and work health and safety procedures.

Roles and responsibilities

All staff, volunteers, contractors and Elected Officials

All staff, volunteers, contractors and Elected Officials are responsible for familiarising themselves with this procedure. It is also important that when a complainant exhibits early warning signs of UCCC, our staff, volunteers, contractors and Elected Officials are able to explain the contents of this document to the complainant.

However, it must be emphasised any strategies that effectively change or restrict a complainant’s access to our services must be considered at the Director/Executive Manager level or higher as provided in this procedure.

Staff are also responsible for recording and reporting all UCCC incidents they experience or witness (as appropriate) to the Executive Manager | People and Governance within 24 hours of the incident occurring, using Council’s Incident Report form. A file note of the incident should also be copied into Content Manager folder (F15/1) for future reference.

The General Manager

The General Manager, in consultation with relevant staff, has the responsibility and authority to change or restrict a complainant’s access to Council services in the circumstances identified in this procedure. When doing so they will take into account the criteria in the section ‘Criteria to be considered’ within this procedure. The General Manager will aim to impose any service changes/restrictions in the least restrictive ways possible. Their aim, when taking such actions will not be to punish the complainant, but rather to manage the impacts of their conduct.

When applying this procedure, the General Manager will also aim to keep at least one open line of communication with the correspondent/complainant. However, Council recognises that in extreme situations all forms of contact may need to be restricted for some time to ensure the health and safety and security of our staff, volunteers, contractors, Elected Officials and/or third parties.

The General Manager is also responsible for recording, monitoring and reviewing all cases where this procedure is applied to ensure consistency, transparency and accountability for the application of this procedure. They will
also manage and keep a file record of all cases where this procedure is applied. This information will be saved in Content Manager folder F15/1.

**Director/Executive Managers**

All Directors and the Executive Manager People and Governance are responsible for supporting staff, volunteers and contractors to apply the strategies in this procedure. Directors and the Executive Manager are also responsible for ensuring compliance with the procedures identified in this document and ensuring all employees are trained to deal with UCCC – as part of the staff induction process.

Following a UCCC and/or stressful interaction with a correspondent/complainant, Directors and/or the Executive Manager | People and Governance are responsible for providing affected staff members, volunteers, and contractors with the opportunity to debrief and raise their concerns either formally or informally. The relevant Director or Executive Manager will also ensure a member of our organisation who has been affected during UCCC are provided with proper support and assistance including medical and/or police assistance and support through initiatives such as Employee Assistance Program (EAP), if necessary.

Depending on the circumstances Director/Executive Managers may also be responsible for arranging other forms of support which are detailed in this procedure.

**Public Officer**

The Public Officer is responsible for ensuring complaints are investigated, recorded and reported on according to the all relevant legislative requirements. Under the *Local Government Act 1993* – Section 343, the functions of the Public Officer include:

- Dealing with requests from the public concerning Council affairs
- Assisting people to gain access to public documents of the Council
- Receive submissions made to Council (including complaints)
- Accept service of documents on behalf of the Council
- Represent the Council in any legal or other proceedings
- Complete tasks assigned or delegated to them by the General Manager of Council.

The Public Officer is subject to the direction of the General Manager.

In relation to managing UCCC, the Public Officer is responsible for coordinating the receipt and recording of all documentation relating to a formal complaint and will ensure the Council complies with requirements of:

- Records Management
- Government Information Public Access (GIPA)
- Privacy Management
- Public Interest Disclosures
- Reporting of complaints to relevant external agencies.

The Public Officer has the delegated authority from the General Manager to administer the investigation of any complaint about UCCC made to Council. A complaint can be submitted to any Council Officer over the phone, in writing, or in person. Upon receipt of a complaint, the respective Council Officer must record the details of the matter using the Customer Request Management (CRM) system.
The correspondent/complainant will be kept informed of the progress of the investigation as well as any decision made. As per the content of this procedure, the correspondent/complainant will have a right of appeal should they not agree with the outcome of the investigation.

**Responding to and managing UCCC**

**Changing or restricting a complainant’s access to our services**

UCCC incidents will generally be managed by limiting or adapting the ways Council interacts with and/or deliver services to complainants by restricting:

1. **Who they have contact with** – e.g. limiting an individual to a sole contact person/staff member in our organisation.
2. **What they can raise with Council** – e.g. restricting the subject matter of communications that we will consider and respond to.
3. **When they can have contact** – e.g. limiting an individual’s contact with our organisation to a particular time, day, or length of time, or curbing the frequency of their contact with us.
4. **Where they can make contact** – e.g. limiting the locations where we will conduct face-to-face interviews to secured facilities or areas of the office.
5. **How they can make contact** – e.g. limiting or modifying the forms of contact the individual can have with Council. This can include modifying or limiting face-to-face interviews, telephone and written communications, prohibiting access to our premises, contact through a representative only, taking no further action or terminating our services altogether.

When using the restrictions provided in this section it is recognised discretion will need to be used to adapt each respective option to suit a complainant’s personal circumstances, level of competency, literacy skills, etc. In this regard, it is appropriate to recognise that more than one strategy may need to be used in individual cases to ensure their appropriateness and efficacy.

**Who: Limiting the complainant to a sole contact point**

Where a correspondent/complainant tries to forum shop internally within our organisation, changes their issues of complaint repeatedly, reframes their complaint, or raises an excessive number of complaints it may be appropriate to restrict their access to a single staff member (a sole contact point) who will exclusively manage their complaint(s) and interactions with our organisation. This may ensure they are dealt with consistently and may minimise the chances for misunderstandings, contradictions and manipulation.

To avoid ‘burn out’ the sole contact officer’s supervisor will provide them with regular support and guidance – as needed. Also, the Public Officer in consultation with the General Manager will review the arrangement every three, six or twelve months to ensure the sole contact officer is managing/coping with the arrangement.

Complainants who are restricted to a sole contact person will however be given the contact details of one additional staff member who they can contact if their primary contact is unavailable – e.g. they go on leave or are otherwise unavailable for an extended period of time.

**What: Restricting the subject matter of communications that we will consider**

Where correspondents/complainants repeatedly send written communications, letters, emails, or online forms that raise trivial or insignificant issues, contain inappropriate or abusive content or relate to a complaint/issue that has already been comprehensively considered and/or reviewed (at least once) by our organisation, Council may restrict the issues/subject matter the complainant can raise with us and what Council will respond to. For example, Council may:

- Refuse to respond to correspondence raising an issue that has already been dealt with comprehensively, which is trivial, or is not supported by clear/any evidence. The complainant will be advised that future
correspondence of this kind will be read and filed without acknowledgement unless it is decided to pursue it further in which case, Council may do so.

- Restrict the complainant to one complaint/issue per month. Any attempts to circumvent this restriction, for example by raising multiple complaints/issues in the one complaint letter may result in modification or further restrictions being placed on their access.

- Return correspondence to the complainant and require them to remove any inappropriate content before we will agree to consider its contents. A copy of the inappropriate correspondence will also be made and kept for our records to identify repeat/further UCCC incidents.

When: Limiting when and how a complainant can contact us

If a complainant’s telephone, written or face-to-face contact with Council places an unreasonable demand on its time or resources because it is overly lengthy (e.g. disorganised and voluminous correspondence) or affects the health safety and security of staff, volunteers, contractors or Elected Officials because it involves behaviour that is persistently rude, threatening, abusive or aggressive, Council may limit when and/or how the complainant can interact with Council Officers. This may include:

- Limiting their telephone calls or face-to-face interviews to a particular time of the day or days of the week.

- Limiting the length or duration of telephone calls, written correspondence or face-to-face interviews. For example:

  a. Telephone calls may be limited to [10] minutes at a time and will be politely terminated at the end of that time period.

  b. Lengthy written communications may be restricted to a maximum of [10] typed or written pages, single sided, font size 12 or it will be sent back to the complainant to be organised and summarised. This option is only appropriate in cases where the complainant is capable of summarising the information and refuses to do so.

- Limiting face-to-face interviews to maximum of [30] minutes.

- Limiting the frequency of their telephone calls, written correspondence or face-to-face interviews. Depending on the natures of the service(s) provided we may limit:


  b. Written communications to [1] every month.

  c. Face-to-face interviews to [1] every month.

For irrelevant, overly lengthy, disorganised or frequent written correspondence we may also:

- Require the complainant to clearly identify how the information or supporting materials they have sent to us relate to the central issues we have identified in their complaint.

- Restrict the frequency with which complainants can send emails or other written communications to our office.

- Restrict a complainant to sending emails to a particular email account (e.g. the organisation’s main email account) or block their email access altogether and require that any further correspondence be sent through Australia Post only.

Writing only restrictions

When a complainant is restricted to ‘writing only’ they may be restricted to written communications through:
Procedure 5.02.5 Compliments and Complaints including Unreasonable Correspondent/Complainant Conduct
Initially adopted: 9 January 2012
Version: 4
Issued: 30 October 2019
Next review: November 2021

- Australia Post only
- Email only to our general office email account
- Fax only to a specific fax number
- Some other relevant form of written contact, where applicable.

If a complainant’s contact is restricted to ‘writing only’, the General Manager will clearly identify the specific means the complainant can use to contact Council (e.g. Australia Post only). Also if it is not suitable for a complainant to enter Council premises to hand deliver their written communication; this must be communicated to them as well.

Any communications received by Council in a manner that contravenes a ‘write only’ restriction will either be returned to the complainant or read and filed without acknowledgement or response.

Where: Limiting face-to-face interviews to secure areas

If a complainant is violent or aggressive, unreasonably disruptive, threatening or demanding or makes frequent unannounced visits to our premises, we may consider restricting our face-to-face contact with them.

These restrictions may include:
- Restricting access to particular secured premises or areas of the office – such as the reception area or secured room/facility.
- Restricting their ability to attend Council premises to specified times of the day and/or days of the week only – for example, when additional security is available or to times/days that are less busy.
- Allowing them to attend Council office on an ‘appointment only’ basis and only with specified staff. Note – during these meetings staff should always seek support and assistance of a colleague for added safety and security.
- Banning the complainant from attending Council premises altogether and allowing some other form of contact – e.g. ‘writing only’ or ‘telephone only’ contact.

Contact through a representative only

In cases where Council cannot completely restrict its contact with a complainant and their conduct is particularly difficult to manage, it may also restrict their contact to being through a support person or representative only. The support person may be nominated by the complainant but must be approved by the General Manager.

When assessing a representative/support person’s suitability, the General Manager should consider factors like:
- The nominated representative/support person’s competency and literacy skills,
- Demeanour/behaviour and relationship with the complainant.

If the General Manager determines the representative/support person may exacerbate the situation with the complainant, the complainant will be asked to nominate another person or Council may assist them in this regard.

Completely terminating a complainant’s access to Council services

In rare cases, and as a last resort when all other strategies have been considered and/or attempted, the General Manager may decide it is necessary for Council to completely restrict a complainant’s contact/access to Council services.

A decision to have no further contact with a complainant will only be made if it appears the complainant is unlikely to modify their conduct and/or their conduct poses a significant risk for our staff or other parties, because it involves one or more of the following types of conduct:
Procedure 5.02.5 Compliments and Complaints including Unreasonable Correspondent/Complainant Conduct
Initially adopted: 9 January 2012
Version: 4
Issued: 30 October 2019
Next review: November 2021

- Acts of aggression, verbal and/or physical abuse, threats of harm, harassment, intimidation, stalking, assault.
- Damage to property while on our premises.
- Threats with a weapon or common office items that can be used to harm another person or themselves.
- Physically preventing a staff member from moving around freely either within their office or during an off-site visit – e.g. entrapping them in their home.
- Conduct that is otherwise unlawful.

A complainant’s access to Council services and its premises may also be restricted (directly or indirectly) using the legal mechanisms such as trespass laws/legislation or legal orders to protect members of our staff from personal violence, intimidation or stalking by a complainant.

Alternative Dispute Resolution (ADR)

Using alternative dispute resolution strategies to manage conflicts with complainants

If the General Manager determines Council cannot terminate its services to a complainant in a particular case or it has been investigated and found that a Council staff member, volunteer, contractor or Elected Official must bear some responsibility for causing or exacerbating their conduct, Council may consider using alternative dispute resolution strategies (‘ADR’), such as mediation and conciliation to resolve the conflict with the complainant and attempt to rebuild Council’s relationship with the complainant. If ADR is considered to be an appropriate option in a particular case, the ADR will be conducted by an independent third party to ensure transparency and impartiality.

However, Council recognises that in UCCC situations, ADR may not be an appropriate or effective strategy particularly if the complainant is uncooperative or resistant to compromise. Therefore, each case will be assessed on its own facts to determine the appropriateness of this approach.

Procedure to be followed when changing or restricting a complainant’s access to our services

Consulting with relevant staff

When the General Manager receives a UCCC incident form from a staff member, volunteer, contractor or Elected Official, they will arrange for the Public Officer to contact the person to discuss the incident. They will discuss:

- The circumstances that gave rise to the UCCC/incident.
- The impact of the complainant’s conduct on our organisation, relevant staff, our time, resources, etc.
- The complainant’s responsiveness to any warnings/requests to stop the behaviour.
- The actions the person has taken to manage the complainant’s conduct, if any.
- The suggestions made by the person on ways that the situation could be managed.

Criteria to be considered

Following consultation with the General Manager, through the Public Officer, relevant Council staff will arrange a search of the TRIM folder (F15/1) and/or Customer Request Management system for information about the complainant’s prior conduct and history with our organisation. They will also consider the following criteria:

- Whether the conduct in question involved overt anger, aggression, violence or assault (which is unacceptable in all circumstances).
- Whether the complainant’s case has merit.
• The likelihood the complainant will modify their unreasonable conduct if they are given a formal warning about their conduct.

• Whether changing or restricting access to our services will be effective in managing the complainant’s behaviour.

• Whether changing or restricting access to our services will affect the complainant’s ability to meet their obligations, such as reporting obligations.

• Whether changing or restricting access to our services will have an undue impact on the complainant’s welfare, livelihood or dependents etc.

• Whether the complainant’s personal circumstances have contributed to the behaviour. For example, the complainant is a vulnerable person who is under significant stress as a result of one or more of the following:
  a. homelessness
  b. physical disability
  c. illiteracy or other language or communication barrier
  d. mental or other illness
  e. personal crises
  f. substance or alcohol abuse.

• Whether the complainant’s response/conduct in the circumstances was moderately disproportionate, grossly disproportionate or not at all disproportionate.

• Whether there are any statutory provisions limiting the types of limitations that can be put on the complainant’s contact/access to our services.

Once the General Manager has considered these factors they will decide on the appropriate course of action. They may suggest formal or informal options for dealing with the complainant’s conduct which may include one or more of the strategies included in this procedure. The General Manager will also use the ‘Checklist for deciding to modify or restrict complainant Access’, attached to this procedure.

See ‘Checklist for Deciding to Modify or Restrict a Complainant’s Access’.

Providing a warning letter

Unless a complainant’s conduct poses a substantial risk to the health and safety of staff, volunteers, contractors or Elected Officials or other third parties, the General Manager will provide them with a written warning about their conduct in the first instance.

The warning letter will:

• Specify the date, time and location of the UCCC incident.

• Explain why the complainant’s conduct/ UCCC incident is problematic.

• List the types of access changes and/or restrictions that may be imposed if the behaviour continues. (Note: not every possible restriction should be listed only those most relevant).

• Provide clear and full reasons for the warning being given.

• Include an attachment of the organisation’s ground rules and / or briefly state the standard of behaviour expected of the complainant.
Provide the name and contact details of the staff member who they can contact about the letter.

Be signed by the General Manager.

See ‘Warning Letter’ Template

Providing a notification letter

If a complainant’s conduct continues after they have been given a written warning or in extreme cases of overt aggression, violence, assault or other unlawful/unacceptable conduct, the General Manager has the discretion to send a notification letter immediately restricting the complainant’s access to Council services (without prior written warning). The template for notifying a complainant of the imposed restrictions is attached to this procedure.

This notification letter will:

• Specify the date, time and location of the UCCC incident(s).
• Explain why the complainant’s conduct/UCCC incident(s) is problematic.
• Identify the change and/or restriction that will be imposed and what it means for the complainant.
• Provide clear and full reasons for this restriction.
• Specify the duration of the change or restriction imposed, which will not exceed 12 months.
• Indicate a time period for review.
• Provide the name and contact details of the senior officer who they can contact about the letter and/or request a review of the decision.
• Be signed by the General Manager.

See ‘Letter Notifying Complainant of Decision to Change or Restrict Access to Council Services’

Notifying relevant staff about access changes/restrictions

The General Manager will notify relevant staff, volunteers, contractors or Elected Officials about any decisions to change or restrict a complainant’s access to our services, in particular reception and security staff in cases where a complainant is prohibited from entering our premises.

The General Manager, through the Complaints Coordinator will also update the Customer Request Management (CRM) system as well as Content Manager folder F15/1 with a record outlining the nature of the restrictions imposed and their duration.

Continued monitoring/oversight responsibilities

Once a complainant has been issued with a warning letter or notification letter, the General Manager through the Complaints Coordinator will review the complainant’s record/restriction every 3, 6, or 12 months, on request by a staff member, volunteer, contractor or Elected Official, or following any further incidents of UCCC that involve the particular complainant to ensure they are complying with the restrictions/the arrangement is working.

If the General Manager determines the restrictions have been ineffective in managing the complainant’s conduct or are otherwise inappropriate they may decide to either modify the restrictions, impose further restrictions or terminate the complainant’s access to our services altogether.
Appealing a decision to change or restrict access to our services

Right of appeal

Complainants are entitled to one appeal of a decision to change/restrict their access to our services. This review will be undertaken by another Group or Executive Manager (the Reviewing Officer) who was not involved in the original decision to change or restrict the complainant’s access. The Reviewing Officer will consider the complainant’s arguments along with all relevant records regarding the complainant’s past conduct. They will advise the complainant of the outcome of their appeal by letter which must be signed off by the General Manager. The Reviewing Officer will then refer any materials/records relating to the appeal to the Executive Manager | People and Governance to be kept in the appropriate file.

If a complainant continues to be dissatisfied after the appeal process, they may seek an external review from an oversight agency such as the NSW Ombudsman. The NSW Ombudsman may accept the review (in accordance with its administrative jurisdiction) to ensure Council have acted fairly, reasonably and consistently and have observed the principles of good administrative practice including, procedural fairness.

Non-compliance with a change or restriction on access to Council services

Recording and reporting incidents of non-compliance

All staff members are responsible for recording and reporting incidents of non-compliance by complainants. This should be recorded in a file note in Content Manager (F15/1) and a copy forwarded to the General Manager who will decide whether any action needs to be taken to modify or further restrict the complainant’s access to our services.

Periodic reviews of all cases where this procedure is applied

Period for review

All UCCC cases where this procedure is applied will be reviewed every 3 months or 6 months (depending on the nature of the service provided) and not more than 12 months after the service change or restriction was initially imposed or continued/upheld.

Notifying the complainant of an upcoming review

The General Manager will invite all complainants to participate in the review process unless they determine this invitation will provoke a negative response from the complainant (i.e. further UCCC). The invitation will be given using the template ‘notifying complainant of upcoming review’. The review will be conducted in accordance with the complainant’s access restrictions (e.g. if contact has been restricted to writing only then the invitation to participate will be done in writing).

See ‘Letter Notifying a Complainant of an Upcoming Review’

Criteria to be considered during a review

When conducting a review the General Manager will consider:

- Whether the complainant has had any contact with the organisation during the restriction period.
- The complainant’s conduct during the restriction period.
- Any information/arguments put forward by the complainant for review.
- Any other information that may be relevant in the circumstances.
The General Manager may also consult any staff members, volunteers, contractors or Elected Officials who may have had contact with the complainant during the restriction period.

Note:
Sometimes a complainant may not have a reason to contact our organisation during their restriction period. As a result, a review decision that is based primarily on the fact the complainant has not contacted our organisation during their restriction period (apparent compliance with our restriction) may not be an accurate representation of their level of compliance/reformed behaviour. This should be taken into consideration, in relevant situations.

See ‘Checklist for Reviewing an Access Change/Restriction’.

Notifying a complainant of the outcome of a review

The General Manager will notify the complainant of the outcome of their review using the appropriate/relevant method of communication as well as a written letter explaining the outcome, as applicable.

The review letter will:

- Briefly explain the review process.
- Identify the factors that have been taken into account during the review.
- Explain the decision/outcome of the review and the reasons for it.

If the outcome of the review is to maintain or modify the restriction the review letter will also:

- Indicate the nature of the new or continued restriction.
- State the duration of the new restriction period.
- Provide the name and contact details of the reviewing Group or Executive Manager who the complainant can contact to discuss the letter.
- Be signed by the General Manager.

See letter ‘Advising Complainant of the Outcome of a Review’

Recording the outcome of a review and notifying relevant staff

Like all other decisions made under this procedure, the General Manager, through the Complaints Coordinator is responsible for keeping a record of the outcome of the review, updating Customer Request Management (CRM) system, as well as Content Manager (F15/1) and notifying all relevant staff of the outcome of the review including if the restriction has been withdrawn.

Managing staff, volunteer, contractor or Elected Officer stress

Reactions to stressful situations

Dealing with complainants who are demanding, abusive, aggressive or violent can be extremely stressful and at times distressing or even frightening for all our staff, volunteers, contractors and Elected Officials – both experienced and inexperienced. It is perfectly normal to get upset or experience stress when dealing with difficult situations.

As an organisation, Council has a responsibility to support anyone who experiences stress as a result of situations arising as a consequence of their role within Council. Council will do its best to provide debriefing and counselling opportunities, when needed. However, to do this successfully, all staff, volunteers, contractors and Elected Officials must be able to identify stressful incidents and situations. As a result, a person who has experienced a stressful incident has a responsibility to notify relevant supervisors/senior managers/General Manager of UCCC.
incidents and any stressful incidents they believe require assistance to manage/resolve as per Council’s Work Health and Safety procedures.

Debriefing

Debriefing means talking things through following a difficult or stressful incident. It is an important way of ‘off-loading’ or dealing with stress. Many people naturally do this with colleagues after a difficult telephone call, but debriefing can also be done with a supervisor or senior manager or as a team following a significant incident. Council encourages all staff, volunteers, contractors and Elected Officials to engage in an appropriate level of debriefing, when necessary.

Access to an external professional service on a needs basis is also available. Council’s Employee Assistance Program – a free, confidential counselling service is available for staff, volunteers and Elected Officials. To make an appointment call: 1300 366 789. For traumatic incident or crisis counselling, call 1800 451 138. Brochures about this service are available from the People and Governance Team | Business and Governance.

Other remedies

Compensation for injury

Any staff member who suffers injury as a result of aggressive behaviour from complainants is entitled to make a workers’ compensation claim. The Recruitment and Injury Management Officer will assist wherever possible in processing claims. For Elected Officials and volunteers, Council holds appropriate insurance coverage to assist with compensation. Information about our insurance coverage for these circumstances is available through Council’s Insurance Officer. If you are the victim of an assault, you may also be able to apply to the Victim’s Compensation Tribunal for compensation.

Compensation for damage to clothing or personal affects

Where damage is suffered to clothing or personal effects as a result of aggression by a complainant, compensation may be sought.

Legal assistance

If a staff member is physically attacked, or is a victim of employment generated harassment and the police do not lay charges, the General Manager will consider providing reasonable legal assistance if the staff members wishes to take civil action.

Threats outside the office or outside working hours

Where threats are directed at a particular staff member, volunteer, contractor or Elected Official and it appears those threats may be carried out outside normal working hours or outside the office, the person will receive support. Requests for such assistance should be made to the Executive Manager | People and Governance.

Escorts home

When a staff member, volunteer, contractor or Elected Official fears for their safety following a threat from a complainant, another person may accompany them home, Council may meet the cost of the person going home in a taxi. Ask the Executive Manager | People and Governance for more information.

Telephone threats on home numbers

If a staff member, volunteer, contractor or Elected Official or their family have been harassed by telephone at their home and they believe it is connected with their role within Council or employment they may apply to the General Manager’s Office for Council meet the cost of having their telephone number changed and/or made silent. The person should also contact their telephone carrier, as they may provide an interception/monitoring service.
If assistance is approved, Council will meet the cost incurred for a period up to 12 months. Once approval is given, the person is responsible for making the necessary arrangements and will be reimbursed after producing a paid account.

Applications for reimbursement will only be approved by the General Manager.

Other security measures

If other security measures are necessary, Council will give consideration to providing all reasonable support to ensure the safety and welfare of the staff member, volunteer, contractor or Elected Official.

Training and awareness

Council is committed to ensuring all staff, volunteers, contractors and Elected Officials are aware of and know how to use this procedure. Any person who deals with complainants in the course of their role within Council will also receive appropriate training and information on using this procedure and on managing UCCC on a regular basis in particular, as part of any induction program.

Ombudsman may request copies of Council records

Council will keep records of all cases where this procedure is applied, including a record of the total number of cases where it is used every year. This data may be requested by the NSW Ombudsman to conduct an overall audit and review in accordance with its administrative functions and/or to inform its work on UCCC.

Procedure review

All staff, volunteers, contractors and Elected Officials are responsible for forwarding any suggestions they have in relation to this procedure to the Executive Manager | ODG, who along with the Governance Coordinator and relevant senior managers will review it biennially (every 2 years).

Supporting documents and policies

Statement of compliance

This procedure is compliant with and supported by the following procedures:

- *Work Health and Safety Management Framework*
- *Grievances and Disputes*
- *Communications Strategy*
- *Records management principles*
- *GIPA Act guidelines*
- *Privacy Management Plan*
- *Recording of customer requests*
Annexure 1 – Dealing with Compliments

Compliment received by Council staff

Compliment Acknowledges by staff person receiving the compliment

No

CRM is created

Compliments/Complaints Coordinator acknowledges compliments and advises manager/Directors

Manager advises staff member/group of compliment received

Task Completed

Yes

Staff records details of compliment and response in CRM System

Task complete
Annexure 2: Dealing with informal/verbal complaints (operational matters)

Inquiry received by Council staff

Yes

Staff records details of issue in CRM System

Task complete

No

Issue resolved at point of contact?

Yes

Complaint is referred to relevant service manager

Manager acknowledges complaint and conducts investigation

Manager proposes resolution to customer regarding their complaint

Resolution accepted by customer?

Yes

Manager records details in CRM System

Task complete

No

Issue referred to Director for resolution
Annexure 3: Dealing with formal written complaints (operational matters)

1. Written complaint received by Council

2. Correspondence sent to relevant Director

3. Director acknowledges complaint and conducts investigation

4. Director proposes resolution to customer regarding their complaint

5. Resolution accepted by customer?
   - Yes
   - No

   - No: Refer to General Manager for review
   - Yes: Correspondence recorded in TRIM

6. Task complete
Annexure 4: Complaints about Corrupt Conduct, including Public Interest Disclosures (PIDs)

Complaint submitted to the General Manager

General Manager acknowledges complaint and assesses the matter

Is there evidence that corrupt conduct occurred?

No

General Manager delegates investigation of the matter

Report provided to General Manager for review

General Manager reviews findings of report and considers options for managing the complaint

Strategies implemented to manage issue

Task complete

Yes

General Manager reports the matter directly to ICAC, NSW Ombudsman or the Office of Local Government for review

General Manager advised of the appropriate action to take in regards to allegations made.

Can the matter be dealt with using internal procedures?

Yes

Matter investigated by external agency

No

Strategies implemented to manage issue

Task complete